

Kirby Noonan Lance & Hoge LLP

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7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**
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10 DARIUS MILLER and DARA MILLER,

11 Plaintiffs,

12 vs.

13 SECURITY LIFE OF DENVER
14 INSURANCE COMPANY, a Colorado
15 corporation; ING AMERICA EQUITIES
16 INC., a Colorado corporation; SOUTHLAND
17 LIFE INSURANCE COMPANY, a Texas
18 corporation, and DOES 1 through 50,
19 inclusive,

20 Defendants.

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AND ALL CROSS-ACTIONS.

Case No. c-11-01175 YGR (JSC)

**STIPULATION AND [~~PROPOSED~~]
ORDER TO DISBURSE FUNDS FROM
THE REGISTRY OF THE COURT**

Trial Date: January 14, 2013

Dept.: Courtroom 3

Judge: The Honorable
Yvonne Gonzalez Rogers

Magistrate Judge: The Honorable
Jacqueline Scott Corley

1 Plaintiffs Darius Miller and Dara Miller, Defendants/Third-Party Plaintiffs Security Life of
 2 Denver Insurance Company and ING America Equities, Inc. (collectively "Security Life"), and
 3 Third-Party Defendant Aviva Life and Annuity Company ("Aviva"), and Cross-Defendant/Cross-
 4 Claim Defendant Lawrence W. Krieger, Jr., (collectively the "Parties"), through their respective
 5 counsel, submit the following stipulation and proposed order re: disbursement of \$377,630.92
 6 from the Registry of the Court, which funds were deposited by Aviva in connection with Aviva's
 7 Cross-Complaint for Interpleader.

8 WHEREAS, pursuant to this Court's previous order (Dkt. 129), Aviva deposited
 9 \$377,630.92 with the Registry of the Court on October 5, 2012 (Dkt. 130), and

10 WHEREAS, the Parties have settled all claims related to this matter and on January 22,
 11 2013 advised the Court that they had reached a settlement agreement (Dkt. 176).

12 WHEREAS, pursuant to the bank statement provided by the Court, as of February 6, 2013,
 13 the deposited funds have earned \$57.01 in interest and incurred \$6.35 in Registry fees, for a total
 14 balance of \$377,687.93. A true and correct copy of the email and bank statement provided by
 15 Jesusa Nobleza to Christopher Wright on February 6, 2013 is attached hereto as Exhibit A and
 16 incorporated by reference herein.

17 NOW, THEREFORE, the Parties, through their respective counsel of record, hereby
 18 stipulate that Plaintiffs Darius Miller and Dara Miller may receive from the Registry of the Court
 19 the amount of \$377,687.93 plus any additional applicable interest and less any additional
 20 applicable Registry Fees, payable to Bartko Zankel Tarrant & Miller Client Trust Account fbo
 21 Darius Miller and Dara Miller, tax identification number 94-2542676.

22 Payment shall be mailed to Plaintiffs' counsel of record:

23 John J. Bartko, Esq.
 24 Bartko Zankel Tarrant & Miller
 25 900 Front Street, Suite 300
 26 San Francisco, CA 94111

27 SO STIPULATED.

28 [signatures appear on following pages]

Kirby Noonan Lance & Hoge LLP

1 DATED: February 25, 2013

BARTKO, ZANKEL, TARRANT & MILLER
A Professional Corporation

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4 By: _____

John Bartko
Jayne Laiprasert
Attorney for Plaintiffs
DARIUS MILLER and DARA MILLER
and Cross-Defendant in Interpleader
LAWRENCE W. KRIEGER, JR.

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8 DATED: February 25, 2013

KIRBY NOONAN LANCE & HOGE LLP

9
10 By: _____

David J. Noonan
Christopher T. Wright
Attorneys for Defendants, Third Party Plaintiffs,
Cross-Defendants,
Counterclaimants, and Crossclaimants Security
Life of Denver Insurance Company and ING
America Equities, Inc.

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16 DATED: February 25, 2013

MAYNARD, COOPER & GALE, PC.

17
18 By: _____

Jeffrey Grantham
J. Ethan McDaniel
Attorneys for Third-Party Defendants
AVIVA LIFE AND ANNUITY COMPANY

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22 Pursuant to the foregoing stipulation, and good cause appearing, it is hereby ORDERED,
23 ADJUDGED and DECREED that as soon as the business of his office allows, the Clerk of the
24 Court shall withdraw and disburse from the Registry of the Court the amount of \$377,687.93 plus
25 any additional applicable interest and less any additional applicable Registry Fees, payable to
26 Bartko Zankel Tarrant & Miller Client Trust Account fbo Darius Miller and Dara Miller, tax
27 identification number 94-2542676.
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1 Payment shall be mailed to Plaintiffs' counsel of record:

2 John J. Bartko, Esq.
3 Bartko Zankel Tarrant & Miller
4 900 Front Street, Suite 300
5 San Francisco, CA 94111

6 **IT IS SO ORDERED.**

7 Dated: March 8, 2013



8 The Honorable Yvonne Gonzalez Rogers
9 Judge of the U.S. District Court

Kirby Noonan Lance & Hoge LLP